

HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ALEXANDER KOSNICKI,

Petitioner,

v.

UNITED STATES,

Respondent.

CASE NO. C13-1002 RAJ

ORDER

This matter comes before the court on the Government's motion to stay petitioner's motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Dkt. # 6.

Petitioner has appealed his criminal conviction entered on March 6, 2013 directly to the Ninth Circuit. Case No. CR 12-144 RAJ, Dkt. # 44. However, the Ninth Circuit has advised that a "district court *should not* entertain a habeas corpus petition while there is an actual appeal pending in [the Court of Appeals] or in the Supreme Court." *Feldman v. Henman*, 815 F.2d 1318, 1320 (9th Cir. 1987). The Ninth Circuit has not resolved whether this rule is a jurisdictional bar or simply a prudential concern. *U.S. v. LaFramboise*, 427 F.3d 680, 686 n.9 (9th Cir. 2005). Regardless, the rule is clear.

1 Accordingly, the court GRANTS the Government's motion to stay. The clerk is  
2 DIRECTED to STAY this action. The Government is ORDERED to provide notice to  
3 this court when petitioner's appeal in his criminal case has been resolved.

4 Dated this 19th day of September, 2013.

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8 The Honorable Richard A. Jones  
9 United States District Judge  
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